

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

Jorge Luis Martinez-Melchor;)	C/A No. 9:06-1723-CMC-GCK
)	
Petitioner,)	
)	
v.)	OPINION AND ORDER
)	
United States of America; and)	
Matthew B. Hamidullah, Warden,)	
)	
Respondents.)	
)	

Petitioner, proceeding *pro se*, filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. At the present time, Petitioner is incarcerated at FCI-Estill, in Estill, South Carolina, serving a 63-month sentence imposed in the Western District of Texas following his guilty plea to a single count of violation of 8 U.S.C. § 1326 (Reentry of a Removed Alien) in January 2004.

In accordance with this court's order of reference and 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(c), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge George C. Kosko.

The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Based on his review of the record, the Magistrate Judge has recommended that the action be *dismissed without prejudice and without requiring Respondents to file a return.* The Magistrate Judge advised Petitioner of his right to file objections to the Report and the possible consequences if he failed to do so. Petitioner has filed no objections and the time for doing so has expired.

After reviewing the Petition, the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is

ORDERED that this action is *dismissed without prejudice and without requiring Respondents to file a return.*

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
July 18, 2006